



## Fuquay-Varina Public Safety Committee Meeting

March 4, 2021

Jason O. Wunsch, Chairman  
William H. Harris, Member  
Marilyn B. Gardner, Member  
Adam G. Mitchell, Town Manager  
Teresa Wilder, Deputy Town Clerk  
James S. Adcock, III, Town Attorney

The Public Safety Committee meeting of the Fuquay-Varina Town Board scheduled for Tuesday, March 4, 2021 at 7:00 p.m. was held at the Fuquay-Varina Town Hall, 134 N Main Street, Fuquay-Varina, NC.

In attendance were Commissioner Jason Wunsch, Commissioner Bill Harris, and Commissioner Marilyn Gardner. Also in attendance were Town Manager Adam Mitchell, Information Technology Director Scott Clark, and Town Attorney James Adcock. Deputy Town Clerk Teresa Wilder attended the meeting virtually.

### CALL TO ORDER

Commissioner Jason Wunsch - Chairman called the meeting to order at 7:00 p.m.

### INVOCATION AND PLEDGE

Commissioner Bill Harris provided the invocation and Commissioner Marilyn Gardner led the Pledge of Allegiance.

### FORMALITIES

F1 Approval of Agenda

Purpose - The purpose of this agenda item is to review and consider approval of the March 4, 2021 meeting agenda.

Discussion - Commissioner Harris asked if there would be an opportunity from people who are attending this meeting by zoom to speak. Chairman Wunsch stated that not at this meeting but in future meetings there would be.

Recommendation - Approval of the March 4, 2021 Public Safety Committee agenda.

MOTION: Commissioner Gardner  
SECOND: Commissioner Harris  
MOTION RESULTS: Passed Unanimously (3-0)

F2 Approval of Minutes

There were no minutes to approve at the March 4, 2021 meeting.

OLD BUSINESS

OB1 There was no old business scheduled for the March 4, 2021 meeting.

PRESENTATIONS

P1 There were no presentations at the March 4, 2021 meeting.

NEW BUSINESS

NB1 Establishment of Committee Organization

Chairman Wunsch stated that he wanted to discuss some proposals on when to meet and how frequently to meet. He proposed that the committee meet every other Thursday at 7:00 pm starting on March 18, 2021 except for this date which would need to start at 7:30 pm. The meetings will take place at Town Hall and will be live streamed. He also suggested that links to the live stream of the meetings be made available on the Town website.

A motion was made to establish meeting frequency and time as proposed by Commissioner Wunsch.

MOTION: Commissioner Harris  
SECOND: Commissioner Gardner  
MOTION RESULTS: Passed Unanimously (3-0)

NB2 Establishment of Committee Mission

Commissioner Wunsch stated that the mission statement of the Public Safety committee was codified on February 5, 1990. He then read the mission statement as follows: The public safety committee shall be composed of at least three members appointed by the Mayor and shall hear and recommend on matters and problems relating to public safety issues and serve two two-year terms during the same term as the incumbent Mayor.

Commissioner Wunsch made the following suggestion for the specific purpose and mission for which the Public Safety Committee was presently meeting.

The Public Safety Committee's purpose for meeting at this time is to gain further understanding about how community and law enforcement relate and identify opportunities to support community policing principles and strengthen relationships.

Recommendation – Adopt the committee mission statement based on the recommendation from Commissioner Wunsch.

MOTION: Commissioner Harris  
SECOND: Commissioner Gardner  
MOTION RESULTS: Passed Unanimously (3-0)

NB3 Report by Town Attorney

Town Attorney James Adcock stated that he was going to discuss policies and procedures for the board's benefit and for the benefit of the public, as to what happens when we have a complaint or issue and then he will discuss public records law authority issues under the statute. Police Officers here in the Fuquay-Varina are employees of the Town like any other Town employee. They have a policy and procedure manual that applies to them. They also have procedures within the police department that are specific to police officers. All complaints are accepted, and they are investigated. Complaints are accepted through members of the public submitting a citizen complaint form in person, by phone, online, by email, by handwritten letter or anonymously under the policy. A supervisor may also take a complaint from the individual in person and employees may also file internal complaints. Then the Chief of Police assigns responsibility for investigating; this may be a department supervisor or the designated professional standards investigator. Interviews are then conducted of all individuals, witnesses, and involved employees. The investigation also

includes the review of all evidence including body camera and in car video. Complaints are investigated within 10 working days unless an extension is granted by the Chief with the expectation that the investigation be completed within 30 days. Once the investigation is complete, it is forwarded to the Chief with a recommendation. Then the Chief of Police makes a final disposition on the case and the Chief may contact Human Resources, legal resources, or other resources in determining the appropriate actions from the review of the facts in the case. During any internal disciplinary action, Human Resources and the Town Manager are contacted to discuss formal disciplinary action including reprimands or terminations under our personnel policy. If any complaints are sustained and disciplinary action is warranted, the Town policy and procedures are followed and additional actions may occur such as counseling, training, developing new policies or modifying existing policies. If criminal violations occur with a Town employee, then a consultation occurs with the District Attorney of Wake County Attorney's Office for criminal prosecution and records of these internal affairs professional standards type complaints are maintained according to North Carolina Records retention laws and personnel privacy laws. These disciplinary actions are filed with the Human Resources Department here at the Town. At the conclusion of all these investigations, a letter is sent to the complainant and the involved employees are also notified regarding the disposition. This is the procedure that the Town has right now.

Town Attorney Adcock stated that the Town is a public entity and the records we keep, the vast majority, are public records. It is a very broad definition of what is a public record and then there is a variety of exceptions to the public records rules. The two most common ones for law enforcement type issues are the personnel exception and the criminal investigation exception. These two exceptions are set forth in the statute. He stated that personnel records are not public records but there are a variety of exceptions to that rule. Things that are public records are name, age, date of employment, terms, if any, by which the employee is employed, current position, title, salary, date and amount of any increases or decrease in salary, date and type of promotion, demotion, transfer, suspension, separation or other change in position, date and general description of the reason for each promotion with that municipality, date and type of each dismissal, suspension or demotion for disciplinary reasons taken by the municipality. Other public records that are in the employee file are not public records. The other exception to the public records law is criminal investigations conducted by a public law enforcement agency. What can be released is name, sex, age, address, employment, and alleged violation of law of a person arrested, charged, or indicted. The Town is constrained by statute of what we can release as part of the criminal investigation and as part of an employee's personnel records.

Town Attorney Adcock then advised that the statutory authorizations that some towns have with respect to citizen boards are in many instances advisory in nature only. He stated that the ability to

have an effective review board is limited by all these public records issues that have been talked about because the review board would not have access to personnel records or criminal investigative materials and more importantly, they would not have the ability to subpoena anyone because that ability is not given by statute. He stated that there have been some attempts to codify some of these review type boards in the statute and they have not passed. He stated that as a Town, we must have statutory authorization in order to do things such as these review type committees. There is also no specific statutory authority to adopt them.

Commissioner Harris asked that if there is clear malfeasance by a staff member, non-law enforcement, it is clear what the process can be. Attorney Adcock stated that there still is a human resources procedure that is followed. Commissioner Harris asked that when there is malfeasance when it comes to a law enforcement officer what would the difference be. Attorney Adcock stated that a person would be under the police policy where that internal affairs investigation is conducted by that officer in the police department that is designated by the Chief versus through the human resources department like a regular town employee would be. Commissioner Harris stated that the policy internally within the police department is not necessarily statutory it is just an internal policy of police practice. Town Attorney Adcock stated that he thinks it is a best practice that is something similar across from town to town and adopted pursuant to professional standards, but it is not codified, specifically in the statute. He stated that there are reasons for keeping it separate because you have investigative elements and ongoing criminal investigations. If they went over to the human resources department versus internal you would have the ability to release those types of items which could limit your investigation if you are still part of an ongoing criminal investigation. Commissioner Harris stated that one of the concerns that was brought out during the Barber Shop Rap Sessions was the fact that when you do have an incident of police malfeasance where an officer makes a mistake or an abuse of power, excessive force or whatever the citizen experienced for that moment there does not seem to be any kind of response communicated to the public. The policy might create anxiety if a person feels that they have a complaint or grievance against law enforcement. There is a gap where it appears that nothing is happening and oftentimes if something could be created to give some feedback, explanation or action taken similar to what would happen with a normal human resource process, we might be able to engage the community earlier in the process. Town Attorney Adcock stated that the investigation is completed in 10 days unless an extension is given. Commissioner Gardner stated that she thought that this time frame was acceptable. Commissioner Harris stated that this would be acceptable for normal practice but when you have the community in an uproar, you have emotions burning and you have a lot of tension built up, he thinks looking at that time frame for particular issues and be able to shorten that timeframe or speed the process up to give feedback as soon as possible might create an opportunity for better understanding. Commissioner Harris stated that the goal was for there to be a conversation and for

questions to be answered when it comes to concerns from the public who may feel that there has been an issue with law enforcement. Commissioner Gardner stated that she was concerned that if you wanted a thorough investigation before conclusions are drawn and answers are given, she would not feel comfortable with limiting that because you do not have all of the information. Commissioner Harris stated that he thinks the investigation should be thorough and does not think that would serve anybody if there was a rush job, but if there is something that can be done to help communication, understanding, and be considered top priority that it may help to reduce confusion and concern. If these kinds of questions can be answered as expeditiously as possible, then that would minimize this air of whether something is being hidden and distrust that tends to seep into conversations when people do not have enough information or if they feel like they are not being heard. Commissioner Harris stated that if the 10 days is a policy that they could discuss and see if it were less than 10 days would it impact the thoroughness of an investigation. Commissioner Gardner stated that one of the keys they have been talking about is communication and she hopes that through this process people will be more educated about how an investigation takes time. Town Attorney Adcock stated that it is a balance and that the public needs information but then you also have the due process rights for the employee too because the officers are employees of the Town. They are entitled to an investigation and procedure that is followed. You do not want to rush the judgement. We want to have the facts and have it investigated. Commissioner Wunsch stated one of his concerns would be the fairness to both sides and not overlooking that and making sure the investigation is thorough. Commissioner Wunsch stated that Chief Fahnestock is very good about communication with the public to the extent that she can communicate by social media and letting the public know what is going on as well as with a situation where there is crime in the community.

Commissioner Harris stated that everyone needs to understand what due process is and when people are impacted by law enforcement, they do not always know what that means. He stated that when people are impacted by law enforcement from the standpoint that the interaction might be improper, that there are two sides. They only understand that they or family members have been impacted and what is the Town going to do about it. Then when you try to tell someone who has had a negative experience with law enforcement, they will not understand due process. He stated that this is an issue that with 10 days or 5 days the Town needs to be creative and come up with some kind of way we can communicate to the public that we are working on this, we are doing something, this is what we are doing and he would like for it to be communicated from the Town of Fuquay-Varina not necessarily the Police Chief but from the Town in general that the Town is doing something. If you were to look historically throughout the country whenever you have had an issue with police misconduct, you have this period of void where nothing is being said and the public gets in an uproar because nothing is being said but it is under investigation and we are going to go

through due process. How is this explained to a mother who has lost their son or a mother who feels that they have been mistreated. Commissioner Harris stated that it is important to strength relationships and to come up with some mechanism where relationships can be strengthened, and the only ways is by communication.

Commissioner Wunsch stated that one way he feels like this is being done in Fuquay-Varina is to have a department that is approachable. He stated that the Police Chief is out in the community a lot and she is engaging with the public. He feels like citizens can approach the police department and express their concerns and that they will be heard. Commissioner Wunsch stated that the Chief has been doing a lot of things to engage the public before COVID and he would like to see that continue. He says that it builds up trust with law enforcement and leadership of law enforcement and this is one way to be able to engage in this dialogue where the public can feel like they can ask questions like what is being done. Having this type of rapport, is something he has seen the Chief work very hard on. I feel these would be very valuable to our Town to continue and that our Board supports the efforts of reaching out to the community, programming and many of the things that have already been done and building upon that so we can have engagement, build trust, build feeling of being able to mention things and there not be any type of bad feelings or repercussions and this is what he sees being done. Commissioner Wunsch encourages this to continue and as a board and committee we can support and help to grow and that would be his thoughts on people in the public who feel like they have a concern, they want to know what is going on or have engagement. One of the benefits of social media now is that it can reach a large amount of people and can build up that trust.

Commissioner Gardner stated that she would like to thank our Town Attorney for being at the meeting and going through the statutory implications of all of this because it is educational for her, and anyway we can figure out how to communicate and understanding some of these limitations that direct how our Town must handle things would be important.

## DISCUSSION

### D1 Committee Member Discussion

Commissioner Wunsch stated that he wanted to propose some ideas that he had for this committee. One thing he thought that would be helpful as a teaching tool to the committee in terms of presentations would be hearing from the North Carolina League of Municipalities in (NCLM) and getting their expertise and advice on this matter. He would like for the NCLM to present ways, tools and methods that have been used to strengthen relationships. He also stated that he would like to

hear about what other communities do in this area of strengthening relationships between law enforcement and the community. The methods that they have used and have done that have been successful. He also would like to have a presentation from Police Chief Fahnestock. She has 30 years of experience in law enforcement and over the last 6 years has done a tremendous amount of work building relationships between the community and law enforcement. She also works with providing training in her department with officers and the hiring process. He would also like for her to report on what she would like to do in the future and how they can help. Commissioner Wunsch also stated that he would like to have meetings where the Committee solely focus on public input and feedback. Commissioner Wunsch stated that the Committee then should put together recommendations for the full Town board based on their discussion, presentations, and public input.

Commissioner Gardner stated that she would like to hear from Commissioner Harris regarding the participation from the NCLM because of his involvement with the League, particularly on the Racial Equity Task Force.

Commissioner Harris stated that for the NCLM, if there is an invitation from the Town to a staff person to come and make a presentation that he agreed it would be helpful. The NCLM also has a Law Enforcement Chief Advisory committee that works with police throughout the state in regard to training standards and training efforts. This committee might be a resource when it comes to methods and tools to strengthen the relationship. Also, the staff that is working with racial equity would be a resource as it relates to interactions with the community and the police. Commissioner Gardner stated that she would like to have the presentations early on because she thinks the information would be helpful to the Committee's work. Commissioner Gardner asked Town Manager Mitchell if he had any other ideas of what other communities are doing. Town Manager Mitchell stated the NCLM is a great resource, and we look to them quite often to assist in providing resources on benchmarking. He stated that there is a network of city managers and law enforcement professionals that can provide input and guidance on this subject and the UNC School of Government has some good resources as well. Commissioner Gardner asked Town Manager Mitchell to help with getting the presentations arranged. Town Manager Mitchell stated that he would contact the NCLM.

Commissioner Gardner stated that she likes all of the Chairman's recommendations for the committee. She stated that she thinks the input from the public is going to be important for discussion. She also stated that a presentation from Chief Fahnestock is going to be helpful because she has done a lot of work with regard to community relationship building. She stated that she believes that the public would be interested in hearing about the training and things the police department is doing as well.



Commissioner Gardner asked what was planned for the next meeting. Commissioner Wunsch suggested that they have a presentation from the NCLM, then by the third meeting hear from Chief Fahnestock, then have a public comment meeting. Town Manager Mitchell stated that he and Commissioner Wunsch would work on arranging the presentations.

Commissioner Wunsch stated that he is excited about building upon what is going on in Fuquay-Varina, building on the work that the Chief has done, building upon the work that the department has done, listening to the public, and working with Commissioner Harris and Commissioner Gardner. He stated that we live in a great community and a great Town. He stated that he respects Commissioner Harris' and Commissioner Gardner's wisdom and that they have been in the community a lot longer than he has and he appreciates the wisdom they will bring to this committee. He looks forward to working with them both, with the Chief and accomplishing their goal of bringing forth recommendations to the full Town Board. He also thanked the public for joining in on the meeting and he hopes they will continue to join them in the meetings.


ADJOURNMENT

A motion was made to adjourn the meeting at 8:36 p.m.

MOTION                      Commissioner Harris  
SECOND                      Commissioner Gardner  
MOTION RESULT:        Passed Unanimously (3-0)

The minutes from the March 4, 2021 Public Safety Committee meeting are adopted this 18<sup>th</sup> day of March in the year 2021 in Fuquay-Varina, North Carolina.

FUQUAY-VARINA, NORTH CAROLINA

  
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Jason O Wunsch, Chairman

ATTEST

(TOWN SEAL)

  
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Teresa Wilder, Deputy Town Clerk

